



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MAY 27, 2003

PRESENT: Acevedo, Escobar, Lyle, Mueller, Weston

ABSENT: Benich, Engles

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, Associate Planner (AP) Tolentino, and Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:02 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

April 22, 2003

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE APRIL 22, 2003 MINUTES WITH THE FOLLOWING AMENDMENTS:

Page 5 last paragraph: ~~considered~~ "concerned about the impact of adding a large amount of commercial"

Page 12 paragraph 4 (sentences 4 & 5) He cited Murphy/Dunne as an intersection which ~~warrants a LOS-D rating~~ recent studies indicate will not meet LOS standards. ...mitigations (add) *to maintain LOS standards.* ...

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH, ENGLS.

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May 13, 2003

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE MAY 13, 2003 MINUTES WITH THE FOLLOWING AMENDMENTS:

Page 2 (bottom paragraph) replace after the comma with "it should not be granted since there are already three other hamburger businesses in this gateway location."

Page 7, paragraph 4 ~~Martial Arts Studios~~ drop-in recreation

Page 10 Paragraph 8 "photometric study ~~id~~ is

Page 15 Paragraph 3 (add) Commissioner Lyle also expressed concern that the CIP does NOT provide information to assess whether its proposed projects are making satisfactory progress towards achieving the 2020 General Plan goals and objectives.

Page 15 *motion* Item 4: **ALSO INCLUDED WAS AN EXCEPTION FOR THE LACK OF LOCATION INFORMATION FOR SOME ITEMS**

P 16 RCDA RDCS

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH, ENGLES.

Commissioner Escobar was excused at 7:04 p.m. due to a conflict with the next agenda item.

OLD BUSINESS:

1) FINAL AWARD & DISTRIBUTION OF MP BUILDING ALLOCATIONS FOR FISCAL YEAR 2004-05 OPEN MARKET COMPETITION

PM Rowe presented the staff report, reminding that on March 11 and 18, 2003 the Commissioners had held public hearings on each of the 23 applications submitted for the current Residential Development Control System Open/Market Competition. Subsequently, on April 8, 2003, the Commissioners approved the final evaluation scores. Because the City was waiting for the population estimate for January 1, 2003 from the CA Department of Finance (CDoF), PM Rowe said, the number and terms of allotments had been held until this meeting. He then reviewed the manner in which the distribution of building allocations is made. Calling attention to Exhibit B, Table 2 of the staff report, PM Rowe reported that the City Council would take action on the three appeals filed (MP-02-06, 22, and 23) at the meeting on May 28, 2003.

PM Rowe continued by stating that since the growth rate is down, the allocation(s) is up from the original estimates for this cycle; originally the number of units had been projected to be 164, but with the receipt of the figure from the CDoF, there would be 182 units available for allocation. Page two of the staff report, he indicated, provided explanation of the allocations by location and type. Attention was directed to the fact that the Westside is the key, there being fewer applications for this area, so the Commissioners would need to look closely at the number allocated.

PM Rowe resumed the presentation by informing that there are basically two concurrent competitions (FY 2004-05 and 2005-06), along with the carryover projects to FY 2006-07. He explained that three resolutions had been prepared for action by the Commissioners (Resolution 17a: 130 units/2004-05; Resolution 17b: open market competition for 2005-06 (including 2006-07 approvals); and Resolution 17c for Fiscal Year 2004-05 small projects).

PM Rowe and the Commissioners discussed the policy of the City Council that 65% of the allocations are to be given to on-going projects with the balance provided to new projects. It was agreed that the distribution recommended by Planning Department staff accomplishes

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the intent of the Council. Commissioner Weston asked if Resolution 17b allows Sunnyside/Quail Creek, with a second year allocation to be completed? [Yes]

Commissioner Mueller asked how many Eastside applications scored higher than the Pinn Brothers? PM Rowe responded that all those receiving allocations scored higher, and there are six that scored higher which did not receive allocation, making the Pinn Brothers project 'way down on the list'.

Commissioner Weston argued for allocations for the Pinn Brothers project, suggesting that the project could be viewed as a two-year project if the Commissioners wanted. He pointed out that this project has been in the competition for two cycles. Other Commissioners did not support that viewpoint. Commissioner Weston continued, trying to convince Commissioners that such action would provide for the 65% allocations that the City Council wants, saving and giving the remainder for newer, higher scoring projects.

Commissioner Lyle called attention to the data on page two of the staff report, saying that the Open/Market category is actually 144 allocations, not the 138 indicated. He indicated understanding that the six allocations for on-going projects would go to the Open/Market category and be pushed into the next year's allocations. PM Rowe clarified that the number for Open/Market stays at 138.

Chair Acevedo asked if the developers in the City had recommended other ideas for award? PM Rowe responded he had not been made aware of any other proposals.

Chair Acevedo opened the public hearing.

With no speakers to the issue, the public hearing was closed.

Commissioner Weston returned to his disagreement about the Pinn Brothers application. Commissioner Weston said that the East/West split is abandoned, as appears to be the case, then Pinn Brothers should be considered an on-going application and provide them with 3, 4, or 5 allocations. Following his discourse, Commissioner Mueller commented that the problem is the initial scoring of the project (MP-02-23: 155.38 points) which is low. "If the score were higher," Commissioner Mueller said, "then the matter could be discussed, but here – if the allocations were awarded – the Commission would be skipping other, higher scoring projects." Commissioner Weston disputed that, saying that an assumption could be made that following one year of competition, the project application could be made stronger. (Other Commissioners indicated disbelief of that theory.) Commissioner Mueller reminded that the Council has set policies for award to on-going projects and in view of those policies, the Commissioners can't justify allocations to such a low scoring project. Commissioner Weston continued to protest, saying it is 'not fair'.

Commissioner Lyle pointed to concerns with the numbers presented. PM Rowe responded that there are currently six reserved allocations for FY 2004-05

In view of the possible discrepancy in the numbers presented and the resultant misunderstanding(s), Chair Acevedo recessed the matter, with the agreement of all Commissioners, to later in the evening.

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Commissioner Escobar returned at 7:32 p.m.

2) ZAA-98-16: CONDIT- HORIZON LAND

A request for approval to amend the Horizon Land Planned Unit Development (PUD) and precise development plan to allow for the construction of a 30,027-sf Ford Dealership on an approximate six acre site. The Horizon Land PUD is located between Condit Rd and Hwy 101, north of E. Dunne Avenue.

AP Tolentino presented the staff report, explaining this matter was continued from the May 13 meeting, and noted the following concerns raised by the Commissioners:

Lighting

Traffic

Noise

Hazardous Materials

have now been more fully addressed. She also said that the seven exemptions originally requested have been reduced to six. AP Tolentino stated that the 15% required landscaping would be met. Several of the items Commissioners raised have been included in the mitigated negative declaration.

Chair Acevedo noted that several e-mails have been received and distributed to Commissioners.

Commissioner Weston asked the record to show that the Murphy Avenue corridor study is to be completed. Chair Acevedo approved, saying that the Murphy Avenue study will address the traffic system in the area.

Chair Acevedo opened the public hearing.

Bruce Tichinin, 17775 Monterey St., said he represents Scott Lynch Ford of Gilroy. Mr. Tichinin began by asking for more time, saying the Resolution prepared by staff had not been released until 7:00 p.m., which he said precluded perusal of the document. "There has not been enough time to read the resolution nor make responses," he said. "If the Commissioners take the matter seriously, my request for a continuance will be granted. I – and others – can review it within one week and make responses. We just got the Resolution at 7:00 p.m. tonight. It took the Planning Staff two weeks to prepare it. If the Planning Commission votes on the Resolution tonight, they are not meeting their duties." Mr. Tichinin went on to say that the photometric study (for addressing the concerns of lighting glare) which was a recommendation by staff last time, seems to have disappeared without explanation. But that issue continues to be and so a full EIR needs to be completed. Mr. Tichinin continued by stating that there is potential violation of the architectural policies of the City in the studies. "This indicates the ARB is not done yet, and it is important to wait for the ARB to complete its' findings. If they find any issues with CEQA, then the EIR cannot be mitigated." Mr. Tichinin cited other developments in the City and the traffic studies associated with those developments. He stated that the only urgency in the project is the fact that the applicant is in escrow, adding that if the sale is solid, there should be no problems. *Mr. Tichinin strongly indicated that the Planning Commission appears to place validity on the business dealings concerned with the sale and close of escrow of the property.* Mr. Tichinin said that the tractor trailers offloading, with the potential traffic circulation, could be of significant impact. "Not addressed," Mr. Tichinin said, "is the use of the land as agricultural. Loss of that use may represent a potential large cumulative effect." Mr. Tichinin concluded, "The

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preparation of an EIR would present alternative sites, with better carefully selected location possibilities.”

Commissioner Mueller asked Mr. Tichinin how many sites had been looked at for car dealerships? Mr. Tichinin replied he did not know. Commissioner Mueller said that three sites had been considered and at least two are still available. “By definitive record,” he said, “the City leaders know where the dealerships want to be.”

Mr. Tichinin took the opportunity to speak on the exceptions and the reasons why those requests could be questioned.

Teresa Lawson, 1385 James Ct., presented a petition with 19 signatures which she said represent opposition against the dealership at the proposed location. Ms. Lawson read from the petition, citing concerns of lighting, noise, possible environmental hazards, increased traffic and decreased safety for children in the neighborhood. She said she had spoken with each of the signers of the petition and all were opposed regarding the potential impacts and therefore were against the dealership.

Bob Burkhardt, 1375 James Ct., said that auto malls are becoming more popular, and they just seem to increase in size. He said that if this dealership is allowed, there would continue to be more, citing the Capitol Expressway as an example. Mr. Burkhardt listed issues of lighting and noise as concerns, saying he wants ‘harmonious use with housing and parks in the area’. He urged the Commissioners to look at all the impacts at once, not one by one.

Mary Johnson, 17470 Murphy Ave., thanked the Commissioners and staff for the updated work on the project, saying she is ‘happy with some of the points of the plan presented’, while continuing to ask for details:

- photometric study
- test drive routes
- delivery times for transport truck drop-off

and lastly saying, “It would have been great to have the Resolution for viewing before the meeting.” Furthermore, Ms. Johnson said, there seems to be a great deal of mitigations given to the dealership, and indicated she would like to see what mitigations they are willing to provide. She urged the Commissioners to keep in mind the rights of the residents. “There will be drive-by (automobile) shoppers on Condit,” she predicted. “We believe Murphy should be a two lane and Condit a four lane road.”

Michael Lawson, 1385 James Ct., said he had attended a meeting as had one of the staff regarding this matter. Mr. Lawson said that the concerns still exist regarding safety for area residents when test drives are conducted. (Staff has denoted the routes for test drives which the applicant has agreed to.) Mr. Lawson asked how those routes could be enforced. PM Rowe said that generally people with complaints will call in and enforcement follows. Mr. Lawson continued saying the City has not illustrated the penalties for non-enforcement by the dealership. He spoke of accidents. Mr. Lawson said he agrees with others’ views of the environmental concerns, such as lighting at night, suggesting that exemptions not be given and asking for a ‘no’ vote for the project. He said this is the ‘wrong time in the wrong place’, predicting a domino effect with Condit Road being more impacted. Mr. Lawson urged the Commissioners to vote against the request to protect the neighborhood, and instead of this location look to rezoning the area in front of the defunct hospital.

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John Telfer, 17045 Monterey Rd., spoke in favor of the project, indicating a concern that a 'hired gun' representing Gilroy Ford was presenting obstacles. He reminded that alternative sites have been studied, speaking of a 10-mile limit for placement at Tennant. Mr. Telfer said that Cochrane is too high above the freeway to present success for this type of project. He said this project is not being 'ramrodded' through, that these sites were worked on for three years as part of the updated General Plan. "The City Council wants revenue, and this is a good source of revenue for the City," Mr. Telfer declared. He reminded that a near crisis had occurred in the City in the early 1990s, causing lessening of service to parks, recreation, and other City services. "While parks and recreation are desirable, they present no revenue base for the City. This project will generate high sales tax. As to traffic, car lots do not generate high amounts of traffic. This will bring benefits to the City. The concerns raised have been addressed well by the staff. The Commissioners can help avert a fiscal crisis by granting this request," Mr. Telfer stated. "Please pass the resolution allowing this request."

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Chair Acevedo announced that, because a resident wishing to speak had just arrived, the public hearing would reopen.

Nilou Tarani, 1585 Kelly Park Circle, said she had recently moved to the area. "My bedroom faces the proposed construction site and I have many concerns regarding the lighting." She also expressed concerns of traffic and child safety.

The public hearing was closed as there were no others indicating a wish to address the matter.

AP Tolentino reiterated the changes to the Mitigated Negative Declaration and the Resolution, calling attention to the issues of lighting, traffic (noting that complaints regarding test drive violations would be investigated and enforcement procedures adhered to), noise, hazardous materials (the Fire Department and code enforcement have reviewed the mitigations).

Commissioner Lyle asked about truck unloading times. AP Tolentino said restrictions could be added to the Resolution. Commissioner Mueller called attention to T/C3 of the Mitigated Negative Declaration where the issue can be addressed as well.

Responding to a question, AP Tolentino said this matter will go before the City Council June 4 and the ARB, June 5. Commissioner Mueller announced for the audience that they will have the opportunity to voice their concerns at these two meetings as well.

In response to a public comment, Chair Acevedo clarified that the Commissioners are volunteer(s) and not paid staff.

Discussion followed regarding the times for offloading of vehicles from transport trucks. The applicant's representative, Vince Burgos, was present and indicated that the hours for delivery of 9:00 a.m. to 4:00 p.m. would be acceptable.

Responding to a question from Commissioner Lyle, AP Tolentino explained progressive

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enforcement measures.

Chair Acevedo asked that there be clarification that there would be no public paging/announcement system, but that the applicant file the plan for communication with the City.

Commissioner Weston said that in the performance of the photometric study, it would be important to ensure that an independent, certified electrical engineer who could address all the concerns about lighting review the study.

PM Rowe explained how such studies are conducted, citing traffic studies which the Commissioners have seen in the past. Language indicating the City shall conduct the photometric study will be inserted on page 5, A-1 of the Mitigated Negative Declaration.

Commissioner Lyle commented that the photometric study should include the lightened areas as well. Discussion developed regarding the lighted areas, with AP Tolentino explaining the code included in the PUD chapters; this involved the 15-foot height of light standards being required.

Commissioner Weston said the City Council should be able to tell what is needed in the topic of lighted areas. This triggered discussion of the possibility of two different lighting standards for installations, for the sales display lots and for the other areas on site.

Chair Acevedo suggested listing lighting as a concern, then let the ARB be specific about the lighting requirements.

PM Rowe explained that the photometric study will list specific concerns. "If the City conducts the photometric study, there will be identified issues to be looked at," he said.

By consensus, Commissioners agreed that language will be added to Resolution No. 03-31, Section 17, (F) and will state that the City will have the photometric study completed.

Commissioner Weston offered comments on placing guidelines on the photometric study.

Chair Acevedo stated that he was not aware of any issues concerning the escrow of the subject property which would indicate problems. *He countered Bruce Tichinin's implied allegation that Planning Commissioners were influenced by the escrow closing dates and other business issues. Chair Acevedo stated he had no personal knowledge of any of the business points or escrow conditions.*

Commissioner Mueller called attention to a statement by Mr. Telfer referencing that the City had initiated a study for businesses which would enhance City revenues. PM Rowe responded that an economic development strategy has been adopted and that the Business Assistance Department has looked at several sites for auto dealerships. Many potential areas for projects such as this have been studied, he said, but a decision was made that the Dunne Ave/Highway 101 site is the best area for car dealerships.

Commissioner Weston said he would like to see the ARB change the design of the car display area. He recognized a potential conflict of uses in the immediate area.

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COMMISSIONER MUELLER MOVED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION WITH THE FOLLOWING CHANGES:

PAGE 3, T/C 3: DELIVERY HOURS ARE RESTRICTED TO 9:00 A.M. TO 4:00 P.M. WITH TRUCKS DELIVERING ONSITE ONLY. (Language shall be added to Resolution No. 03-31)

Commissioner Mueller noted it is important to minimize to less than significant the impacts on the adjacent properties or existing uses, saying this may take an amendment to the *site plan to meet the General Plan*, as the residentially zoned properties are located across Condit.

PAGE 5 N/1 THERE WILL BE NO PUBLIC PAGING/ANNOUNCEMENT SYSTEM, AND THE APPLICANT WILL FILE THE PLAN FOR INTRA-COMMUNICATION WITH THE CITY. (Language shall be added to Resolution No. 03-31)

Commissioner Weston asked if notation should be made regarding management/restriction of construction worker's vehicles? This was not agreed.

COMMISSIONER ESCOBAR SECONDED THE MOTION WHICH PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH, ENGLS.

COMMISSIONERS MUELLER/ESCOBAR OFFERED RESOLUTION NO. 03-31, RECOMMENDING APPROVAL TO AMEND THE HORIZON LAND PUD AND TO ESTABLISH A PRECISE DEVELOPMENT PLAN FOR THE NORTHERN 8.65 ACRES TO INCLUDE A 30,027-SF FOR DEALERSHIP AND TWO COMMERCIAL BUILDING PADS, INCLUSIVE OF THE FOLLOWING AMENDMENTS:

SECTION 17, (F) THE CITY WILL HAVE THE PHOTOMETRIC STUDY COMPLETED BY AN INDEPENDENT CERTIFIED ELECTRICAL ENGINEER
PUD CONDITION # 62: DELIVERY HOURS ARE RESTRICTED TO 9:00 A.M. TO 4:00 P.M. WITH TRUCKS DELIVERING ONSITE ONLY

PUD CONDITON # 35: ~~.....IF AVAILABLE DELIVERED, AND IF UNLESS OTHERWISE REQUIRED.....~~

Commissioner Mueller asked staff to convey to the ARB the Commissioner's desire that a proper amount of screening is placed.

PUD CONDITION # 84: THERE WILL BE NO PUBLIC PAGING/ANNOUNCEMENT SYSTEM, AND THE APPLICANT WILL FILE THE PLAN FOR IN HOUSE COMMUNICATION WITH THE CITY.

THE MOTION WHICH PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH, ENGLS.

Chair Acevedo reiterated to the audience this is a recommendation by the Planning Commission to the City Counsel.

Chair Acevedo announced agenda item one would be considered at this time.

Commissioner Escobar was excused at 8:55 p.m. due to a potential conflict.

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1) FINAL AWARD AND DISTRIBUTION OF MP BUILDING ALLOCATIONS FOR FISCAL YEAR 2004-05 OPEN MARKET COMPETITION

PM Rowe explained the numbers in the three resolutions presented.

Resolution No. 03-17A: 124 represents the total number of allocations available now, with the six reserved for on-going projects.

Resolution No. 03-17B: Total 117 allocations, with 60 allocations noted for the FY 2006-07, as agreed to by the City Council

Resolution No. 03-17C: Six allocations for FY 2004-05 and nine allocations for FY 2005-06 (It was noted that these are the two-year distribution for small projects.)

Commissioner Mueller asked if Warmington and Central Park will receive enough allotments to be completed within two years? PM Rowe replied affirmatively.

Commissioners discussed feasibility of passing the Resolutions based on the City Council denying the three appeals which they will hear at their next meeting. It was agreed to be unlikely that the City Council would overturn the recommendations of the Commission. Commissioner Mueller said he would be more comfortable if it was noted that the Resolutions as presented were conditional on the City Council not adjusting the numbers (points and rankings). PM Rowe said that the recommendation for allocation distribution rests with the Planning Commission. If the City Council disagrees, the matter must be returned to the Commission for resolution.

Commissioner Mueller stated his concern that the City Council could invalidate the score through variation of ranking.

PM Rowe reiterated that if the rankings change, the allocation distribution must be returned to the Commission, this being a provision of Measure P.

Following further discussion, **COMMISSIONER MUELLER OFFERED RESOLUTION NO. 03-17A, APPROVING FINAL PROJECT SCORES AND DISTRIBUTION OF THE BUILDING ALLOTMENT IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET COMPETITION FOR FISCAL YEAR 2004-05; DELETING SECTION 1, AND HAVING SECTION 2 BECOME SECTION 1. (RESOLUTION NO. 03-17A WAS CLARIFIED AND REDISTRIBUTED IN THE MEETING.) COMMISSIONER WESTON SECONDED THE MOTION WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH, ENGLER, AND ESCOBAR WERE ABSENT.**

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 03-17B, MODIFYING THE NUMBER OF ALLOCATIONS FOR FY 2005-06 TO 117 AND DENOTING THE EAST/WEST DISTRIBUTION AND FURTHER THE 60 ALLOCATIONS ALLOTTED TO FY 2006-07, APPROVING THE DISTRIBUTION OF THE BUILDING ALLOTMENTS IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET COMPETITION FOR FISCAL YEAR 2005-06, AND ADDING SECTION THREE (3) THAT THE DISTRIBUTION AND ALLOCATIONS ARE CONDITIONAL ON THE CITY COUNCIL NOT OVERTURNING THE RECOMMENDATIONS. (RESOLUTION NO. 03-17B WAS CLARIFIED AND REDISTRIBUTED IN THE MEETING.) CHAIR ACEVEDO SECONDED THE MOTION WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH, ENGLER, AND ESCOBAR WERE ABSENT.

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Chair Acevedo was excused at 9:12 p.m. due to a potential conflict with Resolution No. 03-17C. Consequently, Vice-Chair Mueller assumed the gavel.

VICE CHAIR MUELLER OFFERED RESOLUTION NO. 03-17C, APPROVING THE DISTRIBUTION OF THE BUILDING ALLOTMENTS IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET SMALL PROJECT COMPETITION FOR FISCAL YEAR 2005-06. (RESOLUTION NO. 03-17C WAS CLARIFIED AND REDISTRIBUTED IN THE MEETING). COMMISSIONER LYLE SECONDED THE MOTION WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ACEVEDO, BENICH, ENGLES, AND ESCOBAR WERE ABSENT.

Chair Acevedo and Commissioner Escobar returned to the meeting at 9:13 p.m. with Chair Acevedo retaining the gavel.

NEW
BUSINESS:

**3) SD-03-02/
DA-03-03:
HALE-
GARCIA**

A request for approval of a 12-lot subdivision located within the Capriano project located on the west side of Monterey Rd., east of Hale and south of Tilton Ave. Also requested is the approval of a development agreement for the phase V of the Capriano project.

PM Rowe gave the staff report.

Commissioner Lyle noticed that this is requesting allotments which were just conditionally approved under the resolutions in item 1. PM Rowe said that even if the Council wiggles, there will be some number of allocations given to this project. He said if the Commissioners are concerned, they could condition the project contingent on Council action or continue the matter.

Commissioner Lyle said he thought the matter was a 'little shaky'. "If you look at Measure P, the RDSC section deals with the time of the application submission."

Chair Acevedo said he had no problem with dealing with the matter at this meeting. Whereupon discussion ensued as to the 'timing'. PM Rowe informed that the matter will go to the City Council for their June 18, 2003 meeting. The applicant (Rocké Garcia) was present and agreed that he had no problem with the Commissioners continuing discussion with action following; nor did he disagree with having the matter continued to the next Commission meeting.

Commissioner Weston asked if there is a provision that the play areas must be installed by the completion of X number of units being under way?

Chair Acevedo opened the public hearing.

With no one present to address the item, the public hearing was closed.

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COMMISSIONERS MUELLER/LYLE MOTIONED TO CONTINUE SD-03-02/DA-03-03: HALE-GARCIA TO THE JUNE 10, 2003 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH AND ENGLS WERE ABSENT.

4) DAA-01-07: COCHRANE-MISSION VIEW A request to amend the project development agreement for phase V of the Mission Ranch project located on the south side of Cochrane Rd. between Peet Rd. and Mission View Dr. The amendment request is for a 6-month extension of 15 building allocations granted for FY 2002-2003.

PM Rowe presented the staff report, saying a major stumbling block of this project had been the agreement for street extension(s) over the Santa Clara Valley Water District right-of-way. That, he explained, is the reason for the extension of time requested for this item. It was noted that the full explanation for the request was contained in a letter from the applicant.

During discussion, Exhibit B was examined and revised to indicate a date change:

VI. COMMENCE CONSTRUCTION-FY 2002-03 (Construction must have begun on 15 permits) ~~June 30, 2003~~ December 30 31, 2003, in keeping with correspondent quarterly reporting.

Chair Acevedo opened the public hearing.

With no persons present indicating a wish to address the matter, the public hearing was closed.

Noting the agreed upon date modification, **COMMISSIONERS MUELLER/WESTON OFFERED RESOLUTION 03-34, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-01-07 FOR APPLICATION MP-00-21: MISSION VIEW-DIVIDEND TO ALLOW FOR A SIX-MONTH EXTENSION OF TIME FOR 15 BUILDING ALLOTMENTS AWARDED FOR FY 2002-03 IN THE 2000 RDCS COMPETITION. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH AND ENGLS WERE ABSENT.**

5) DAA-02-01: CHURCH-SOUTH COUNTY HOUSING A request to amend the project development agreement for a 72 unit multi-family development located on the east side of Monterey Rd. adjacent to the south side of the Morgan Hill Post Office. The amendment request is for a 12 month extension of 36 building allocations granted for FY 2002-2003.

PM Rowe presented the staff report, saying that the applicants had just informed today that the funding was secured for the project. Construction must be underway by November as a condition of the funding. Responding to questions by the Commissioners regarding the funding, PM Rowe explained that the applicants had been notified by letter of the funding availability and that they in turn had called the Planning Department to report same.

Commissioner Lyle asked about the November "begin construction" date. PM Rowe said the whole project must be underway, not just one or two units.

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Commissioner Mueller asked if there would be conditional building permits to meet the funding schedule. [No, it is no longer necessary] PM Rowe explained when the permits could be pulled, the fee schedules, etc., saying the permits will probably be pulled in October, 2003. Discussion followed regarding the dates listed in Exhibit B.

Chair Acevedo opened the public hearing.

With no one present to address the matter – and PM Rowe assuring the Commissioners that the applicant had been informed of the hearing – the public hearing was closed.

COMMISSIONERS WESTON/MUELLER MOTIONED APPROVAL OF RESOLUTION NO. 03-35, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-02-01 FOR APPLICATION MP-00-31: CHURCH-SOUTH COUNTY HOUSING TO ALLOW FOR A SIX-MONTH EXTENSION OF TIME FOR 36 BUILDING ALLOTMENTS RECEIVED IN THE 2001 RDCS COMPETITION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH, ENGLÉS.

6) DAA-00-08: BERKSHIRE-SINGH A request for approval to amend an existing development agreement for a four-unit project proposed at the northeast corner of Hale Avenue and Llagas Road. The development agreement amendment would allow for an extension of time to commence construction of the four units.

AP Tolentino presented the staff report, calling attention to the revised timelines in Exhibit A.

Commissioner Weston asked if the plans have been submitted? Mr. Singh was present and answered in the affirmative, saying one round of plan checks had been completed. AP Tolentino agreed.

Responding to a question from Commissioner Lyle, Mr. Singh said he will be the builder of record for the project. He continued that everything has been approved.

Commissioner Weston expressed concern that this application has been seen many times and he wants assurance that this is the final time for it to come to the Commission. Commissioner Weston indicated his thoughts that the many extensions asked for amount to an abuse of the system.

COMMISSIONER WESTON OFFERED RESOLUTION NO. 03-36, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT, DAA-00-08: BERSHIRE-SINGH, WITH THE ADDITION OF A SENTENCE TO SECTION 2: THIS WILL BE THE FINAL TIME FOR THIS PROJECT APPLICATION TO BE BROUGHT TO THE COMMISSION.

Commissioner Mueller asked if the project has everything complete from the County, and all that remains is agreement between the applicant and the City? SE Creer indicated that was his understanding.

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Commissioner Lyle asked if there were significant staff issues following the first round of plan checks? Staff indicated that was not the case.

Commissioner Mueller asked if the Commissioners were to decide tonight to rescind the projects – take away the four projects – where would they go? Following explanation by staff that there would be no benefit to take away the allotments, Commissioner Mueller recommended the motion be modified to say, “the Planning Commission strongly wants this to be the last extension to the project”.

Commissioner Lyle asked the applicant when he expects to pull permits [December, 2002], then the applicant added, “Right now, I am going to the bank for a construction loan.”

Commissioner Weston continued to express concern about any further extensions.

Commissioner Mueller said the Commission could say, “This may not be the final extension, but there should be no more.”

COMMISSIONER WESTON AGREED TO MODIFY THE MOTION: RESOLUTION NO. 03-36, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT, DAA-00-08: BERSHIRE-SHING, AND (ADDITION TO SECTION 2): THE PLANNING COMMISSION STRONGLY WANTS THIS TO BE THE LAST EXTENSION TO THE PROJECT. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF THE COMMISSIONERS PRESENT; BENICH AND ENGLES WERE ABSENT.

7) EOT-03-06: MCLAUGHLIN-JONES A request for an extension of loss building allocation of twelve months for five building allocations. The site is located on E. Central Avenue, east of Monterey Road located in the R2-3,500 and R3 zoning districts.

PM Rowe gave the staff report, including the varied background of this project and the several times the Commissioners have dealt with it. He said it is difficult to justify the one-year extension requested, suggesting that less than one year is feasible, but six months may not be long enough for the items to be completed.

PM Rowe noticed the modification to Resolution No. 03-37, which was distributed to the Commissioners.

Commissioner Lyle directed attention to the letter from the applicants, asking if the lot line adjustment had been resolved? [Yes]

PM Rowe said the lot line adjustment had been completed and all that is missing is the recording of the lot line adjustment.

Commissioner Weston spoke to the six months extension, asking if the applicant could complete the items indicated in his letter and the staff report within six months?

Commissioner Escobar was excused at 9:50 p.m., subsequently returning to the meeting at 9:53 p.m.

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PM Rowe explained what must be accomplished. "Less than six months may be problematic. We are waiting for the plans. If the applicant is responsive to SP Linder's letter of completeness, then the applicant can proceed immediately."

Commissioner Lyle *directed attention to* the language of the applicant's letter whereby, because of items listed in SP Linder's correspondence, the application was marked 'Incomplete for Processing'.

Chair Acevedo opened the public hearing.

Jerry Jones, 16532 Mira Bella Place, spoke to the Commissioners as the applicant. He assured that all the corrections have been completed and that he has met with staff regarding all the issues. "I need a full one-year extension," he said. "If I resubmit all the corrections, it will be late June or July then it must go back to the Planning Commission, the City Council, and the ARB. The process is holding up progress," Mr. Jones declared. "If I'm only given a six-months extension, it will be December, and it's not feasible; you can't move dirt then."

Commissioner Weston asked if the applicant has completed all the corrections?

Mr. Jones said there is still a difference in parking requirements, as a portion of the property is zoned R-3. He indicated that the Building Department is helping 'put together information'.

Responding to a question from Commissioner Lyle, Mr. Jones indicated his plan to act as General Contractor/Builder for the project.

Commissioner Mueller pointed out that the applicant's letter of April 16, 2003 said that all corrections have been completed. "Why then, have you not submitted?" the Commissioner inquired. "I'm concerned that this is five weeks after your letter and the submittal is still not done. If the corrections have not been all done, why did you state that they were completed?"

Mr. Jones responded, "That was probably a mistake."

Commissioner Weston commented that it appears that the applicant has 'worked the process' and indicated that the time gaps exist.

Commissioner Lyle observed that this application is unlike the previous one, where 'outside agencies' had to be dealt with.

Chair Acevedo asked the Commissioners to decide on six months as the staff recommended or the one-year requested by the applicant.

Commissioner Lyle talked about applicant inaction.

Chair Acevedo asked staff to comment on the timelines.

Commissioner Mueller said it is important to ask for and document specific milestones.

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Discussion followed regarding specific concerns by Commissioners dealing with the project and the best methods for dealing with the subdivision agreement in conjunction with the RPD overlay.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 03-37, RECOMMENDING APPROVAL OF AN EXCEPTION OF LOSS OF BUILDING ALLOCATION ALLOWING A SIX-MONTH EXTENSION OF TIME FOR APPLICATION MP-00-03: McLAUGHLIN-JONES, INCLUDING THE PROVISION THAT THE TIME LINE AS APPROVED WOULD BE REVIEWED FOR ADDITIONAL TIME EXTENSION AS PART OF THE PROCESSING OF THE DEVELOPMENT AGREEMENT. CHAIR ACEVEDO SECONDED THE MOTION WHICH PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH AND ENGLS WERE ABSENT.

Commissioner Escobar was excused at 10:11 p.m.

Chair Acevedo was excused at 10:12 p.m. for the next agenda item due to potential conflict.

Vice-Chair Mueller assumed the Chair for item 8.

8) ANX-03-01: HILL-GERA The applicant is requesting annexation of six (6) parcels totaling 19.50 acres into the City of Morgan Hill. The project site is pre-zoned RE (40,000)/RPD Residential Estate/Residential Planned Development. The project site is located on the west side of Hill Road, north of Pear Drive and south of the southerly boundary of the El Dorado III subdivision.

PM Rowe presented the staff report, saying this represents a logical extension of the City boundaries and that all the density issues have been resolved. The site, PM Rowe said, has been rezoned to meet the requirements of the General Plan.

Vice-Chair Mueller opened the public hearing.

Randy Armstrong, 17381 Jean Court, called attention to lot 049 which he said is not mentioned here, but contains the water well for three of the lots. In the title it is noted as "and lot 049" he said. Mr. Armstrong agreed that the 'key shaped' lot – which he owns - should be included as part of the request.

With no others present to address the matter, the public hearing was closed.

Staff agreed that modification of the Resolution to include the indicated lot would be proper.

COMMISSIONERS LYLE/WESTON OFFERED RESOLUTION NO. 03-38, MODIFIED TO INCLUDE LOT NO. 049, RECOMMENDING APPROVAL OF THE ALTERATION OF THE BOUNDARIES OF THE CITY OF MORGAN HILL BY ANNEXATION THERETO CERTAIN TERRITORY DESIGNATED "HILL ROAD NO. 2" AND WITHDRAWAL OF SAID TERRITORY FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT. THE MOTION CARRIED BY THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ACEVEDO, BENICH, ENGLS, AND ESCOBAR WERE ABSENT.

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Chair Acevedo returned to the meeting at 10:20 p.m. and assumed the gavel.

**ANNOUNCE-
MENTS:**

PM Rowe reported the following City Council approvals at the May 21, 2003 meeting:

- ◆ the quarterly RDCS report
- ◆ the annexation application for Cochrane-Borello
- ◆ zoning amendment application: East Dunne-Ho

PM Rowe stated that at that meeting, the Council also reviewed the effect of the growth rate on traffic impacts (a study).

Chair Acevedo announced a joint City Council/Planning Commission workshop on June 24 to begin at 6:00 p.m., followed by the regular Planning Commission meeting. The workshop will deal with issues of the Murphy Corridor Study.

Commissioner Mueller asked why the street standards are not shown on the upcoming agenda, indicating he has asked for this discussion for quite some time. Staff responded that once the Measure P issues are out of the way, they will be prepared to deal with other matters.

Commissioner Mueller announced that the City has resolved the Burrowing Owl lawsuit, and said he is hopeful that the plan will be implemented soon and to the satisfaction of all.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 10:25 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk